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AO-95-08

Ms. Gail Meyers Sharman
17 Daley Terrace
Orleans, MA 02653

Re: Candidate's serving as officer of political action
committee

Dear Ms. Sharman:

This letter is in response to your recent request for an
advisory opinion.

Your questions relate to M.G.L. c. 55, s.5A, which provides
that "[n]o candidate or individual holding elective public
office shall establish, finance, maintain, control or serve as
a principal officer of a political action committee . . ."¹

Section 5A would apply to you if you are a "candidate"
within the context of the campaign finance law or an individual
holding elective public office. A "candidate" is "any
individual who has received a contribution or made an
expenditure, or has given his consent for any other person or
committee to receive a contribution or make an expenditure for
the purpose of influencing his nomination or election to such
office, whether or not the specific public office for which he
will seek nomination or election is known. . . ." M.G.L. c. 55,
s. 1. See AO-93-12.

You state that you were a write-in candidate in 1994. You
have not yet decided whether to run for office in 1996, but you
have not dissolved your committee, since the committee is
currently retiring liabilities incurred in 1994. Since your
committee remains active, even if only to receive contributions
and make expenditures to retire your debt, you are still a
"candidate" as that term is defined by the campaign finance law
and therefore subject to section 5A.

You have asked if your serving as an officer of a PAC would
be consistent with section 5A if the PAC has a written policy
creating a "standing or ad hoc contributions committee not
appointed (therefore not under [your] control)," or if you can

¹ The statute creates an exception for a majority of the
members of each political party in the house of representatives
and in the senate, each of which can authorize one PAC
controlled by a candidate or elective public office holder.

"stand down during funding votes." You have also asked if you can serve as an officer of a town political party committee.

1. Can I serve as a principal officer of a PAC if I am not involved in the PAC's decisions regarding funding of candidate campaigns?

No. The statute does not allow a candidate to serve as a principal officer of a PAC even if the candidate insulates himself from the making of contributions by the PAC. There is no indication that the legislature intended to allow the exceptions suggested in your letter, and therefore such exceptions cannot be read into the statute.

You may, however, be active in a PAC, if you are not a "principal" officer of the PAC and do not otherwise "establish, finance, maintain, or control" the PAC. A "principal" officer is one who is "in a leading position." See AO-95-01 (enclosed). "Principal" officers of a PAC would include its chairman, president, treasurer, secretary, clerk, or chair or officer of a PAC's finance committee. See M.G.L. c. 55, s. 5. Therefore, you may be a member of a PAC or one of its committees. You may also be able to serve as a member of a PAC's finance committee, provided you are not the chair or an officer of the finance committee. Whether we would conclude that a person is not just active, but "controls" a PAC depends on a consideration of the facts of each particular case.²

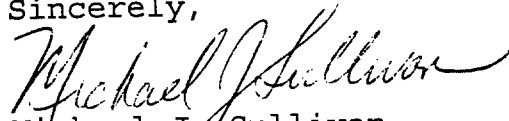
2. Does section 5A prohibit my serving as an officer of a town political party committee?

M.G.L. c. 55, s. 1 contains definitions of "political action committees" and "political party committees." A "political action committee" is a committee "which is not a candidate's committee, a political party committee, or a ballot question committee . . ." Only "political action committees" are within the scope of section 5A. Therefore, a candidate or elected office holder may serve as a principal officer of a town's political party committee.

This opinion has been rendered solely on the basis of the representations in your letter and telephone conversations with OCPF staff, and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions.

Sincerely,


Michael J. Sullivan
Director

MJS/cp
Enclosure

² We encourage candidates and elected public office holders to contact this office with any questions regarding the application of s. 5A, prior to becoming active in PACs.